

DOCKET NO.: OPGA-0002
Application No.: 10/079,011
Office Action Dated: September 8, 2005

PATENT

Amendments to the Drawings

The attached sheet of drawing includes a change to Fig. 5 to change reference label 46 to reference label 140. The sheet, which includes Fig. 5, replaces the original sheet including Fig. 5.

Attachment: Replacement Sheet

REMARKS

Claims 1 and 26 have been amended to recite limitations relating to the subject matter of claims 7 and 9; claims 10 and 25 have been amended to recite limitations relating to the subject matter of claim 9; claim 21 has been amended to recite limitations relating to the subject matter of claim 23; claims 3, 12, 20, 23, and 28 have been amended to correct antecedence; and claims 7, 19, 24, and 27 have been canceled. No new matter has been added. Upon entry of this Amendment Response, claims 1-6, 8-18, 20-23, 25, 26, and 28 will remain in the application.

Objection to the Declaration

In the Official Action, the declaration was objected to as allegedly not including the inventor's signatures. Applicant submits that this objection was issued in error as the fully executed declaration was filed with a Response to a Notice to File Missing Parts on May 10, 2002. A copy of the as-filed executed declaration will be provided upon request if the Examiner cannot find his file copy. Withdrawal of the objection to the declaration is solicited.

Objection to the Drawings

In the Official Action, the drawings were objected to as failing to comply with 37 CFR 1.84(p)(4) for use of the reference character "46" in Figure 5 and for failure to include reference label "140" in Figure 5 in view of the usage of the reference label "140" in the written description of Figure 5. Applicant has proposed to substitute a corrected Figure 5 to change the reference label from "46" to "140" to correct an obvious error. Withdrawal of the drawing objections is solicited.

Rejection of claim 11 under 35 USC § 112, second paragraph

Claim 11 stands rejected under 35 USC §112, second paragraph, as allegedly being indefinite for claiming a volatile memory device as limiting the non-volatile memory device claimed in parent claim 10. Claim 10 has been amended to remove the term "non-volatile" so as to overcome this rejection. Withdrawal of the rejection of claim 11 is solicited.

Rejections Under 35 USC §§ 102 and 103

Claims 10, 12, 14, 15, 19-21, 24, and 25 stand rejected under 35 USC §102(b) as allegedly being anticipated by Beckert et al. (US 6,009,363); claims 1, 3-9, 13, 16, 26, and 27

stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Beckert et al.; claims 2 and 11 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Beckert et al. in view of George (US 6,317,657); and claims 17, 18, 22, 23, and 28 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Beckert et al. in view of the SimpleDevices article from Applicant's Information Disclosure Statement. Independent claims 1, 10, 21, 25, and 26, as amended, are believed to obviate these rejections.

Withdrawal of these rejections is requested for the reasons given below.

Claim 1 has been amended to recite an audio system including, in combination, a digital storage device such as a DRAM, an audio playback device, and:

an audio acquisition device that receives the audio data to be stored in the DRAM, said audio acquisition device including a radio receiver that receives digital data transmitted wirelessly to said audio system from a nearby computer or media server and stores the received digital data in the DRAM; and

a power supply system between the vehicle's electrical system and the audio system, the power supply system supplying power to the audio system consistently including when the vehicle is not in use and detecting when the voltage provided by the vehicle's electrical system is low, whereby the power supply system selectively minimizes or removes power to the audio system when a low voltage is detected and said radio receiver of said audio acquisition device connects to said nearby computer or said media server to download digital data for storage in the DRAM and playback once a low voltage is no longer detected.

Similar limitations may now be found in independent claims 10, 25 and 26. Applicant respectfully submits that such a combination of features is not taught by Beckert et al. alone or in combination with the George patent and/or the SimpleDevices article.

Similarly, claim 21 has been amended to recite an audio playback method in a vehicle including the steps of:

(a) selecting a user selecting specific audio content that the user wants to listen to in the vehicle;

(b) establishing a wireless short-range radio networking connection between an audio device that is mounted in the vehicle and a nearby computer or media server containing the specific audio content;

(c) transferring a copy of the specific audio content over the wireless connection from the remote source to the audio device;

(d) the audio device receiving the specific audio content and storing it in non-volatile memory; and

(e) the user interacting with the audio device to cause it to play back said specific audio content.

Applicant respectfully submits that such a combination of steps also is not taught by Beckert et al. alone or in combination with the George patent and/or the SimpleDevices article.

In contrast with the claimed audio system and method, Beckert et al. teach a vehicle computer system having a high speed data buffer to which peripheral devices are serially connected for integration of the operation and display of the peripheral devices. The high speed data buffer enables the peripheral devices to communicate with one another without intervention from the computer module. Beckert et al. disclose that the peripheral devices may include a CD ROM drive, a DVD player, an AM/FM tuner, navigation systems, audio signal processors, a wireless link to the Internet, and the like and that the high speed data buffer may be a high speed SRAM. Beckert et al. further disclose that the vehicle may have a backup battery that functions as a secondary power source for the vehicle computer system. However, Beckert et al. fall short of suggesting the combination of features now claimed in the independent claims.

In particular, Beckert et al. do not disclose a wireless short-range radio networking connection between an audio device that is mounted in a vehicle and a nearby computer or media server containing the desired audio content as claimed in independent claims 1, 10, 25, and 26. Beckert et al. further do not suggest that such a connection may be used to transfer selected audio content to a user of an audio playback system in a vehicle as claimed in independent claim 21. Beckert et al. instead suggest that data may be transmitted over a wireless Internet connection or via an infrared transceiver port (which those skilled in the art will appreciate requires line of sight to operate). Moreover, while Beckert et al. teach the use of a backup battery system, Beckert et al. do not suggest that the backup battery system selectively minimizes or removes power to the audio system when a low voltage is detected. In fact, to do so would be contrary to Beckert et al.'s teachings of using the backup battery system and SRAM to prevent data loss. The claimed audio system permits the power supply

to be minimized or even disconnected since the claimed audio system includes an audio acquisition device that connects to a nearby computer or media server to download digital data for storage in the DRAM to restore data for playback once a low voltage is no longer detected. Such a data restoration mechanism is clearly contrary to Beckert et al.'s teachings of preventing data loss in the first place by providing an SRAM and a backup battery system. Since Beckert et al. do not provide such teachings, the audio system and method now set forth in independent claims 1, 10, 21, 25 and 26 is believed to be novel and non-obvious over the teachings of Beckert et al.

Neither the George patent nor the SimpleDevices article provides the missing teachings of a wireless short-range radio networking connection between an audio device that is mounted in a vehicle and a nearby computer or media server containing the specific requested audio content for playback and/or data restoration as claimed. Similarly, neither the George patent nor the SimpleDevices article provides the missing teachings of a power supply system that "selectively minimizes or removes power to the audio system when a low voltage is detected and said radio receiver of said audio acquisition device connects to said nearby computer or said media server to download digital data for storage in the DRAM and playback once a low voltage is no longer detected." In the absence of such teachings, even if one skilled in the art would have been motivated to combine the teachings of the George patent and/or the SimpleDevices article with Beckert et al. as the Examiner proposes, the claimed audio system and method could not have resulted.

As set forth in M.P.E.P. §§2142-2143.03, in order to establish a *prima facie* case of obviousness, patent examiners are required to establish three criteria: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference, or combination of references, must teach or suggest all the claim limitations. The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To make a proper obviousness determination, the examiner must "step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made." In view of the available factual information, the examiner must make a determination as to whether the claimed

invention "as a whole" would have been obvious at that time to a person of ordinary skill in the art. Importantly, a rejection based on these criteria must be based on what is taught in the prior art, not the applicant's disclosure. The applicant's disclosure may not be used as a blueprint from which to construct an obviousness rejection.

Given that Beckert et al., George, and the SimpleDevices article taken separately or together do not teach or suggest all the claim limitations (*e.g.*, do not teach a "wireless short-range radio networking connection between an audio device that is mounted in a vehicle and a nearby computer or media server containing the specific requested audio content" or a power supply system that "selectively minimizes or removes power to the audio system when a low voltage is detected and said radio receiver of said audio acquisition device connects to said nearby computer or said media server to download digital data for storage in the DRAM and playback once a low voltage is no longer detected"), the Examiner has not established a *prima facie* case of obviousness. Moreover, the Examiner has further failed to provide a *prima facie* case of obviousness with respect to any claim since the Examiner has not met his burden of providing a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. Instead, the Examiner has provided very general and vague references to combining the teachings of Beckert et al. and George for the purpose "of using a faster SRAM" as the random access memory in the Beckert et al. system and combining the teachings of Beckert et al. and the SimpleDevices article "for the purpose of automated backup or updating." Applicant submits that these alleged motivations are insufficient to establish *prima facie* obviousness. In any case, the proposed combinations clearly do not suggest the claimed audio system and method and, as a result, one skilled in the art would not be motivated to combine the teachings of Beckert et al., George and/or the SimpleDevices article to provide the claimed audio system and method. Motivation is clearly lacking for such combinations of teachings.

In view of the above, all independent claims and all claims dependent thereon are believed to be novel and non-obvious over the prior art and withdrawal of the prior art rejections is respectfully solicited.

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Conclusions

In view of the above, Applicant submits that claims 1-6, 8-18, 20-23, 25, 26, and 28 are allowable over the art of record. Allowance of claims 1-6, 8-18, 20-23, 25, 26, and 28 and issuance of a Notice of Allowability are respectfully solicited.

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